IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 28TH FEBRUARY 2007 / 9TH PHALGUNA 1928

WP(C).No. 13057 of 2006(D)

PETITIONER:

SHEELA JACOB, W/O.LATE BABU.,
AGED 44 YEARS, KADUVALLYKUDI HOUSE,
VELLAYAMKUDI.P.O., KATTAPPANA.

BY ADV. SRI.BABU KARUKAPADATH
SRI.K.A.NOUSHAD

RESPONDENTS:

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1. **STATE OF KERALA,**
   REPRESENTED BY THE SECRETARY TO GOVERNMENT,
   DEPARTMENT OF HOME AFFAIRS, TRIVANDRUM.

2. **THE DIRECTOR GENERAL OF PROSECUTION,**
   HIGH COURT BUILDINGS, ERNAKULAM.

3. **THE DISTRICT COLLECTOR, IDUKKI.**

4. **THE ACCOUNTANT GENERAL (A&E) KERALA,**
   THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SHRI.P.NANDAKUMAR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS:-

P1: **Copy of the order dtd.19-3-2005 of the District Collector, Idukki.**

P2: **Copy of the order No.46246/C4/2005/Home dtd.9/9/2005 of the Government.**

P3: **Copy of the order dtd.26-9-2005 of the Dy.Director of Prosecution, Thodupuzha.**

P4: **Copy of the order dtd.15-6-2005 of the Director General of Prosecution, Ernakulam.**

P5: **Copy of the order No.E8-27265/2005 dtd.30-9-2005 of the District Collector, Idukki.**

P6: **Copy of the order No.E8-27265/2005 dtd.12-9-2005 of the District Collector, Idukki.**

P7: **Copy of the envelope in which Ext.P6 was dispatched to the petitioner.**

P8: **Copy of the representation dtd.6-10-2005.**

P9: **Copy of the order dtd.7-9-2005 of the Director General of Prosecution, Ernakulam.**

P10: **Copy of the Bill for pay and allowances for the earned leave encashment submitted by the petitioner.**

P11: **Copy of the letter dtd.9-11-2005 of the Accountant General.**

P12: **Copy of the report of transfer of charge alongwith letter dtd.1-2-2005 to the District Collector, Idukki.**

P13: **Copy of the letter dtd.30-12-2005 of the District Collector, Idukki.**

P14: **Copy of the letter dtd.14-12-2005 of the District Collector, Idukki.**

P15: **Copy of the explanation dtd.19-12-2005 submitted by the petitioner to the District Collector, Idukki.**

P16: **Copy of the representation dtd.21-1-2006.**

RESPONDENTS' EXHIBITS:- **Nil.**

-/ true copy /-

P.A. To Judge.

kvs/-

K.K.DENESAN, J.

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WP(C).No.13057 OF 2006-D.
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Dated this the 28th day of February, 2007.

J U D G M E N T

The petitioner was appointed as Asst. Public Prosecutor temporarily in the Judicial First Class Magistrate Court, Idukki. On the expiry of the term of the temporary appointment, the 3rd respondent took it for granted that the petitioner had ceased to be in service. But the petitioner approached the Government for extension of the term of appointment. The Government by order dated 9-9-2005 (Ext.P2) directed to issue a fresh order appointing the petitioner to the post of Asst. Public Prosecutor on provisional basis. The District Collector, based on the order issued as per Ext.P2, allowed the petitioner to work as Asst. Public Prosecutor for yet another term. But in between the last date on which the first spell of service ended and the date of commencement of the second spell, there occurred a gap. The petitioner was treated as not in service in that interregnum. In that view of the matter the

District Collector requested the petitioner to submit a report of transfer of charge (RTC) showing that the petitioner stood relieved from duty on 17-9-2005. The petitioner was required to sign the Report of Transfer of Charge vide orders passed by the District Collector. Subsequently the petitioner was permitted to continue in service but before the expiry of the term of that appointment, she obtained an interim order from this Court not to terminate her service. In spite of that order, she wished to resign her assignment and tendered resignation letter.

2. The petitioner has approached this Court with the grievance that she has not been paid salary and allowances for the period she had rendered service. According to the 3rd respondent, salary could not be paid since the petitioner failed to submit the report of transfer of charge after filling up the requisite columns as requested by the District Collector. According to the 3rd respondent, unless those columns are appropriately filled up, no salary can be claimed and disbursed to the petitioner. He would insist that the petitioner will have to fill up the relevant columns and sign the RTC in the peculiar facts of this case.

3. I feel that this Court need not resolve the above dispute at this stage because the entire records can be perused and appropriate decision taken with reference to the rules and the office procedure, by the 1st respondent. Since the petitioner has not been paid salary, the 1st respondent shall bestow immediate attention to the grievance of the petitioner and appropriate decision.

4. The writ petition is, therefore, disposed of directing the 1st respondent to call for the relevant records from the 3rd respondent, and after affording an opportunity of being heard to the petitioner also, pass orders in accordance with law, within two months from the date of receipt of a copy of this judgment.

K.K.DENESAN, JUDGE.

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